

- EXECUTIVE SUMMARY -

PROPOSED EFFORT CONTROL PLAN FOR THE MASSACHUSETTS COMMERCIAL LOBSTER FISHERY

(This summary is a condensed version of the plan that can be obtained from our website at www.mass.gov/marinefisheries)

I. INTRODUCTION

The American lobster fishery is the most economically important fishery conducted within the territorial waters (out to 12 miles) of the Commonwealth. Regional lobster management was officially transferred to the Interstate Fisheries Management Program (ISFMP) of the Atlantic States Marine Fisheries Commission (ASMFC) in 1999. Prior to 1999, lobsters were managed by federal process under the New England Fishery Management Council. In Massachusetts, the lobster fishery is one of the first to be managed through limited entry; procedures to enter and exit the fishery are well documented by Division of Marine Fisheries (*MarineFisheries*) regulations and policies, which have been operative since 1981.

II. STATEMENT OF PROBLEM

Fishery performance compared over the past decade is showing sign of strain, dormant effort is nearly twice that of actual effort, and the demise of the New England groundfish fishery and other fisheries traditionally plied by small day-boat fishermen all factor into the ingredients that will likely cause a surge in lobster fishing effort in the near future, at a time when less fishing may be required to meet conservation goals of Fishery Management Plan.

As result of changes to our lobster license program in the 1980s and 1990s, the number of coastal permits has declined from an all time high of 1,877 in 1987 to 1,540 in 2002. Effort among lobster trap fishermen, including both coastal and offshore permit holders has fluctuated over the past five years. The current system allows orderly turnover in the industry. Only those licenses that have been actively fished for four out of the past five years may be transferred. However, "actively fished" is not defined in any statute, regulation, or policy. Consequently, permit holders who demonstrate any level of landings have been considered active and may transfer their permits to new entrants in the fishery who are allowed to fish their permit to the maximum level of effort of 800 traps regardless of the previous history of the permit. The person to whom the permit is transferred must prove that he/she has at least one-year experience in the commercial lobster trap fishery or two years of experience in commercial fishing. All permit holders must be owner/operators of the business.

III. EFFORT CONTROL PLAN: OBJECTIVES & DEVELOPMENT

The following seven objectives have guided *MarineFisheries* staff in the development of alternatives to control effort in the lobster fishery that would be easy to implement, monitor and evaluate without adding significantly to agency costs:

1. Increases of traps in state waters must be prevented immediately;
2. Reduction of traps shall be reduced over time to reduce fishing mortality and achieve desired management targets;
3. Plan should minimize disruption to the activity of current participants who conduct commercial fishing;
4. Plan shall allow participants continued access to the fishery with opportunity to scale their operations up or down;
5. Trap levels on an individual basis and for the fishery as a whole should achieve a level of economic efficiency that is sensible to the majority of fishery participants without causing disruption to the marketplace;
6. Plan must be applicable to all fishermen licensed by the Commonwealth in state waters and adjacent federal waters (in Areas 1,2, and Outer Cape Cod) under the oversight of the Atlantic States Marine Fisheries Commission;
7. To the degree practical, the program should treat current fishery participants fairly and equitably (fishery participants are those who are commercial fishermen and fish for lobsters for commercial purposes).

IV. EFFORT CONTROL PLAN: PROPOSED PRINCIPLES & DETAILS

(A) Profile of Current Lobster Fishing Effort

On average 421 permit holders reported that they did not fish during the years 1997 – 2001 (Table 1). It is this latent effort that holds the potential to drastically undermine the sustainability of the lobster fishery in the coming years despite the management tools currently in place. With the potential to nearly double the traps fished, an effort control plan that seeks to stabilize the fishery at its current level is a pragmatic step towards ensuring a viable and valuable fishery.

Table 1. Traps fished among commercial lobster permit holders (coastal and offshore permit holders) fishing in LCMA 1, 2 and OCC 1997-2001.

Trap Interval	1997	1998	1999	2000	2001
DNF *	410	399	436	421	439
1-24	61	54	52	47	47
25-49	85	83	77	81	80
50-99	104	108	98	110	101
100-199	146	134	138	130	121
200-299	124	112	99	102	105
300-399	83	107	79	82	74
400-499	95	94	110	101	104
500-599	68	60	63	42	53
600-699	119	111	105	109	93
700-799	50	63	68	76	86
800	135	151	152	222	216
> 800 †	80	84	86	23	16
Totals	1,560	1,560	1,563	1,546	1,535
Total traps fished	470,436	491,292	483,725	468,146	457,937
Average traps among active fishermen	409	423	429	416	418

† Coastal and Offshore permit holders fishing outside of state waters but inside LCMA 1, 2 and OC

(B) History-Based Trap Limit Program

Marine Fisheries proposes the following statewide trap limit program for the commercial lobster fishery. It will allocate traps allowed to be fished to each permit holder based on the permit's unique fishing history during 1997 through 2001 with traps fished, poundage, and area fished as components of the effort control plan. Each fisherman will be given his average number of traps reported fished, but is limited in transferable traps to a number of traps that is reflective either of his average poundage or his historic average number of traps reported fished, whichever value is lowest. See Section (B) Transfer Program, for more details.

Effective January 2004, each permit holder will be granted their *Trap Allocation*. This would apply to all Massachusetts coastal and all offshore permit holders authorized to fish lobster traps and will be based on the average maximum number of traps reported fished during the years 1997 through 2001; years with no activity will not be included in the calculation of average.

Marine Fisheries will review each permit holder's catch reports and trap tag purchases for years 1999 through 2001 to ensure permit holders purchased and used trap tags as required by 322 CMR 6.31 (Note: trap tags were not required prior to 1999). For purposes of calculating a *Trap Allocation*, any year where the permit holder reported fishing more traps than the number of tags purchased (or issued by *Marine Fisheries*), the number of trap tags purchased will be used in lieu of their reported traps.

Any permit holder who received their permit off the waiting list during 2001 with no fishing performance in 2001 may appeal to *Marine Fisheries* for a modified *Trap Allocation* based on their 2002 history.

Strict qualifying criteria will be established for obtaining trap allocation in the Outer Cape Cod Area, these rules will resemble those approved under Amendment #3 of the interstate plan that *MarineFisheries* has not yet adopted.

(C) Transfer Program

In addition to the initial determination of traps allocated to each permit, the effort control program will regulate all permit and trap transfers. Each permit holder will be given a *Transferable Allocation* that will allocate the number of traps that may be transferred based either on the *Trap Allocation* or the number of traps allowed to be fished as calculated by a modeled relationship of LCMA-specific traps and landings, whichever is lower (Table 2). This *Transferable Allocation* value represents a maximum number of traps each permit holder could transfer to another fisherman when transferring his whole business or a portion of his allocation.

Transfers between fishermen would be allowed in minimum increments of 50 traps, except for those individuals whose *Transferable Allocation* is less than 50 traps; those with less than 50 traps will be allowed to transfer their entire number of traps in combination with their permit. Restrictions on transfers would:

- limit permit holders from retaining fewer than 50 traps after a transfer takes place ;
- modify a permit holder's *Transferable Allocation* after each transaction accordingly (see the entire plan at www.mass.gov/marinefisheries for further details). Traps transferred between fishermen would be transferable in the future by the new owner. If traps are never transferred, the fisherman's *Trap Allocation* will remain in effect (unless *MarineFisheries* enacts a fishery-wide trap reduction in a given LCMA);
- prohibit the transfer of trap tags between LCMA's;
- prohibit the leasing of trap tags;
- revoke any permits of fishermen found leasing or transferring trap tags without authorization.

Table 2. Case examples of allocation rules in trap limit program.

Case	Reported Traps per Year					Average Traps (97-01)	Trap Allocation	Reported average pounds (97-01)	Pound-based predicted trap level	Transferable Allocation
	1997	1998	1999	2000	2001					
A	0	21	15	0	0	18	18	81	11	11
B	70	800	315	520	272	395	395	4,822	216	216
C	400	600	0	0	0	500	500	17,625	556	500
D	140	130	175	200	200	169	169	9,826	363	169
E	100	200	200	200	300	200	200	1,365	86	86
F	800	800	800	800	800	800	800	16,362	527	527
G	800	800	800	800	800	800	800	29,997	819	800

Additionally, *MarineFisheries* will retain a percentage of each trap transaction for conservation purpose, and the percentage may differ among areas and be dependent on stock and fishery conditions. The percentage may be as low as zero.

Existing permit transfer rules (322 CMR 7.06) will be amended to eliminate minimum performance standards. The requirement that permits be fished 4 of the last 5 years to be eligible for a transfer may not be warranted.

(C) Analysis of Overall Trap Totals to Meet Management Objectives

This effort control plan meets all the previously stated objectives, especially the key objectives (1, 3, and 7) - to cap traps immediately, minimize disruption of current participants, and treat fishery participants fairly and equitably. Allocated traps for each LCMA in 2004 will be close to that fished in recent years (Table 3).

Table 3. Effect of effort control plan on allocated traps in Areas 1, 2, and Outer Cape Cod.

LCMA	# of permits assigned	Traps reported fished in 1998	Traps reported fished in 2001	Traps reported fished averaged over 1997-2001	Change relative to 1998	Change relative to 2001	Transferable trap numbers	Change relative to 1998	Change relative to 2001
1	1,046	387,953	369,908	376,532	-3%	2%	296,758	-23%	-20%
2	230	77,602	68,753	68,305	-13%	-1%	56,481	-28%	-18%
OCC	59	25,147	19,276	20,673	-18%	7%	17,786	-29%	-8%
DNF	231	0	0	0					
Totals	1,566	491,292	457,937	465,509	-5%	2%	371,025	-24%	-19%

For Outer Cape Cod, total traps allocated for 2004 is estimated to be 18% lower than 1998 levels; for Area 1 the estimated reduction is 3%; and for Area 2 it is estimated at 13%. These numbers are subject to minor change because *Marine Fisheries* designation of a permit holder's area may be inaccurate in some cases. Once the plan is enacted shifting traps between areas will not be allowed.

This plan is considered preferable to the previously discussed and publicized 5-tier poundage-based plan because the poundage-based plan allows for growth over current levels: 8% increase over 2001 trap totals. Furthermore, any plan that allocates traps to un-fished permits runs the risk of allocating some amount of additional traps (up to 35,560 traps) to any of the three possible areas and this may prevent area-specific conservation goals from being met.

Finally, a poundage-based allocation system with such wide qualifying ranges is expected to alter current fishing levels more than the trap-based system. Based on comments received at public meetings, the poundage-based plan would motivate a substantial number of fishermen to "appeal" their allocation.

Many fishermen who have un-fished or lightly fished permits may prefer the 5-tier poundage-based plan because it represents an allocation of traps larger than they currently fish. However, as noted above, granting traps to un-fished permit holders will result in the overall trap numbers increasing and could stop some of the Interstate Plan's mandated goals from being reached, such as the 25% reduction in Outer Cape Cod.

V. CONCLUSIONS

This plan has been aired to focus groups of Massachusetts lobster permit holders, most of who have served as representatives on the LCMTs. The Plan will cap the number of lobster traps fished in waters of the Commonwealth to current levels actually fished. This is a significant measure because it ensures that the benefits gained by other management measures in the Interstate FMP will not be eroded by increased fishing effort. All previous actions to reach F10% are predicated on the assumption that fishing effort and fishing mortality since 1998 remains the same. We encourage all other jurisdictions to entertain implementation of effective effort control as a foundation for management of American lobster as defined in Objective 2 of Amendment 3.

Because of the time needed to complete both our public hearing process and rule-making, and to develop and have available the proper permit materials at the start of a fishing year, we would not consider launching a new trap control plan prior to the 2004 fishing year. Likewise, modifications that adjust initial allocations, improve provisions for trap transferability between permit holders, and other possible considerations raised by industry may occur before the plan is finalized.

The MFC is expected to vote on the plan at their June 6th business meeting. *Marine Fisheries* will subsequently present the program to the ASMFC Lobster Board at their mid-June meeting as a compliance measure for the interstate plan.